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REFERENCE TITLE: **mental health services; legal representatives**

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

HB 2242

Introduced by
Representatives Hershberger, Bradley, O'Halleran, Senator Giffords

AN ACT

AMENDING SECTION 36-543, ARIZONA REVISED STATUTES; RELATING TO COURT-ORDERED TREATMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-543, Arizona Revised Statutes, is amended to
3 read:

4 36-543. Release from treatment of gravely disabled patient or
5 persistently or acutely disabled patient: annual
6 review and examination

7 A. A patient found to be gravely disabled OR PERSISTENTLY OR ACUTELY
8 DISABLED and ordered to undergo treatment may be released from inpatient
9 treatment when, in the opinion of the medical director of the mental health
10 treatment agency, the level of care offered by the agency is no longer
11 required. The patient may agree to continue treatment voluntarily. If the
12 patient is to be released, the medical director shall arrange for an
13 appropriate alternative placement.

14 B. If a patient to be released is under guardianship as a gravely
15 disabled person OR AS A PERSISTENTLY OR ACUTELY DISABLED PERSON, the medical
16 director of the mental health treatment agency shall notify the guardian ten
17 days before the intended release date that the ward no longer requires the
18 level of care offered by the agency. The guardian shall arrange alternative
19 placement with the advice and recommendations of the medical director of the
20 mental health treatment agency.

21 C. The medical director of the mental health treatment agency is not
22 civilly liable for any acts committed by the released patient if the medical
23 director has in good faith complied with the requirements of this article.

24 D. A patient who has been found to be gravely disabled OR PERSISTENTLY
25 OR ACUTELY DISABLED and WHO is undergoing court-ordered treatment shall have
26 an annual examination and review to determine whether the continuation of
27 court-ordered treatment is appropriate and, ~~to assess the needs of the~~
28 ~~patient~~ IF SO, WHETHER THERE IS A NEED for guardianship or conservatorship,
29 or both. The medical director of the mental health treatment agency shall
30 appoint one or more examiners qualified to carry out the examination, at
31 least one of whom shall be a psychiatrist licensed to practice in this state,
32 and may at the discretion of the medical director appoint one or more
33 additional examiners.

34 E. Each examiner participating in the annual examination and review of
35 a gravely disabled person OR A PERSISTENTLY OR ACUTELY DISABLED PERSON shall
36 submit a report to the medical director of the mental health treatment agency
37 which includes the following:

38 1. The examiner's opinions as to whether the patient continues to be
39 gravely disabled OR PERSISTENTLY OR ACUTELY DISABLED and in need of
40 treatment.

41 2. A statement as to whether suitable alternatives to court-ordered
42 treatment are available.

43 3. A statement as to whether voluntary treatment would be appropriate.

1 4. A review of the patient's status as to guardianship or
2 conservatorship, or both, the adequacy of existing protections of the patient
3 and the continued need for guardianship or conservatorship, or both. If the
4 examiner concludes that the patient's needs in these areas are not being
5 adequately met, the examiner's report shall recommend that the court order an
6 investigation into the patient's needs.

7 F. The medical director of the mental health treatment agency shall
8 forward the results of the annual examination and review of a gravely
9 disabled person OR A PERSISTENTLY OR ACUTELY DISABLED PERSON to the court
10 including the medical director's recommendation based on the review which may
11 be release of the patient without delay, release with delay or no
12 release. If the patient does not have a guardian, the court ~~shall~~, on
13 receipt of the medical director's report, SHALL appoint an attorney to
14 represent the patient. An attorney appointed under this subsection, within
15 three days after appointment, to the extent possible, shall fulfill the
16 duties imposed by section 36-537 and review the medical director's report,
17 AND the patient's medical records, interview the physician who prepared the
18 report and, if appropriate, request a hearing. If the patient is under
19 guardianship pursuant to section 14-5312.01, a copy of the report shall be
20 mailed to the patient's guardian. If the medical director's recommendation
21 is no release or release with delay, the court may accept the report and
22 recommendation of the medical director or order a hearing. The court shall
23 order a hearing if requested to do so by the patient, the medical director
24 or, if the patient has a guardian pursuant to section 14-5312.01, the
25 guardian. If a hearing is ordered, the court may order additional
26 examinations of the patient. The hearing shall be held within three weeks of
27 the request. At the hearing the court may order the patient released or may
28 order that treatment be continued. The court may also order an investigation
29 into the need for guardianship OR CONSERVATORSHIP, OR BOTH.

30 G. The deputy director shall create and operate a program to assure
31 that the examination and review of gravely disabled persons OR PERSISTENTLY
32 OR ACUTELY DISABLED PERSONS are carried out in an effective and timely
33 manner. The deputy director, with the approval of the director, shall adopt
34 rules needed to operate this program.